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Class Counsel

**UNITED STATES DISTRICT COURT
 CENTRAL DISTRICT OF CALIFORNIA**

KEITH ANDREWS, an individual,
 TIFFANI ANDREWS, an individual,
 BACIU FAMILY LLC, a California
 limited liability company, ROBERT
 BOYDSTON, an individual, MORGAN
 CASTAGNOLA, an individual, THE
 EAGLE FLEET, LLC, a California limited
 liability company, ZACHARY FRAZIER,
 an individual, MIKE GANDALL, an
 individual, ALEXANDRA B. GEREMIA,
 as Trustee for the Alexandra Geremia
 Family Trust dated 8/5/1998, JIM
 GUELKER, an individual, JACQUES
 HABRA, an individual, MARK
 KIRKHART, an individual, MARY

Case No. 2:15-cv-04113-PSG-JEM

[Consolidated with Case Nos. 2:15-CV-
 04573 PSG (JEMx), 2:15-CV-4759 PSG
 (JEMx), 2:15-CV-4989 PSG (JEMx),
 2:15-CV-05118 PSG (JEMx), 2:15-CV-
 07051- PSG (JEMx)]

**DECLARATION OF JULI FARRIS
 IN SUPPORT OF MOTION TO
 AMEND ORDER CERTIFYING
 FISHER CLASS PURSUANT TO
 RULE 23(c)(1)(C)**

KIRKHART, an individual, RICHARD LILYGREN, an individual, HWA HONG MUH, an individual, OCEAN ANGEL IV, LLC, a California limited liability company, PACIFIC RIM FISHERIES, INC., a California corporation, SARAH RATHBONE, an individual, COMMUNITY SEAFOOD LLC, a California limited liability company, SANTA BARBARA UNI, INC., a California corporation, SOUTHERN CAL SEAFOOD, INC., a California corporation, TRACTIDE MARINE CORP., a California corporation, WEI INTERNATIONAL TRADING INC., a California corporation and STEPHEN WILSON, an individual, individually and on behalf of others similarly situated,

Plaintiffs,

v.

PLAINS ALL AMERICAN PIPELINE, L.P., a Delaware limited partnership, PLAINS PIPELINE, L.P., a Texas limited partnership, and JOHN DOES 1 through 10,

Defendants.

Date: November 18, 2019
Time: 1:30 p.m.
Judge: Hon. Philip S. Gutierrez
Courtroom: 6A

I, Juli Farris, declare as follows:

1. I am an attorney at the law firm of Keller Rohrback LLP and counsel for Plaintiffs in the above-captioned matter. I have personal knowledge of the facts set forth in this declaration, and, if called as a witness, I could testify competently to the matters set forth herein.

2. I am submitting this Declaration in support of Plaintiffs' Motion to Amend Order Certifying Fisher Class Pursuant to Rule 23(c)(1)(C) ("Motion").

3. The Motion is made following the conference of counsel pursuant to LR 7-3, which took place on August 1, 2019, following correspondence in July 2019.

1 4. Attached as Exhibit 1 is a true and correct copy of the Verdict Form for
2 Count 1 from *People v. Plains All American Pipeline, L.P.*, No. 1495091 (Sep. 7, 2018,
3 Sup. Ct. Santa Barbara).

4 5. Attached as Exhibit 2 is a true and correct copy of the executive summary
5 of the U.S. Department of Transportation's Pipeline and Hazardous Materials Safety
6 Administration Failure Investigation Report: Plains Pipeline, LP, Line 901, Crude Oil
7 Release, May 19, 2015, Santa Barbara County, California May 2016.

8 6. Attached as Exhibit 3 is a true and correct copy of the Expert Report of
9 Igor Mezic, Ph.D., dated March 29, 2019.

10 7. Attached as Exhibit 4 is a true and correct copy of the Amended and
11 Supplemental Expert Report of Peter Rupert, Ph.D., dated August 30, 2019.

12 8. Attached as Exhibit 5 is a true and correct copy of a Map of Fishing
13 Blocks: Original Definition.

14 9. Attached as Exhibit 6 is a true and correct copy of a Map of Fishing
15 Blocks: Amended Definition.

16 10. Attached as Exhibit 7 is a true and correct copy of a Map of Fishing
17 Blocks: Original and Amended Definitions.

18 11. Attached as Exhibit 8 is a true and correct copy of a list of CDFW fishing
19 blocks in the Southern California Fishing region, ranked according to the aggregate
20 volume of oil located in each, from lowest (number 1) to highest (number 244). The oil
21 volumes are taken from data developed by Plaintiffs' expert Dr. Mezić, using the most
22 probable 10,750 scenario. *See* PLTF-EXPT-IM-0000655.XLS. This data was used to
23 identify the 50 blocks that, based on Dr. Mezić's model, contained the greatest volumes
24 of Plains oil during and in the three month period after the spill (May 15, 2015 until
25 August 17, 2015), on an aggregate basis. Dr. Mezić's model identifies these 50 blocks
26 as those where volumes of Plains oil in the ocean after the Spill reached their highest
27 levels and/or remained for sustained periods of time. *Id.* Dr. Rupert's difference-in-
28 differences regression analysis also confirms, that these are the blocks where the Oil

1 Spill had its greatest impact on fishers. The proposed amended class definition includes
2 those 50 blocks, and five additional blocks (651, 678, 686, 680 and 761) that are
3 adjacent to such blocks on at least two sides.

4 12. Attached as Exhibit 9 is a true and correct copy of a description of Highly
5 Migratory Species identified by Pacific Fishery Management Counsel.

6 13. Attached as Exhibit 10 is a true and correct copy of a description of
7 Groundfish identified by CDFW.

8 14. Dr. Mezić's model quantifies oil in the water table roughly 75 to 100 feet
9 below the surface. Species that live and reproduce in this zone include invertebrates and
10 shallow water fish, such as coastal pelagic species and invertebrates. Farris Decl., Ex.
11 4, Lenihan ¶38. According to Dr. Lenihan, the release of toxic chemicals in this zone
12 would be less likely to impact species that swim long distances or reside primarily in
13 deeper water, below the area in which the oil is located. Moreover, to the extent such
14 species or their larvae are impacted, the effects might not be immediately apparent in
15 the catch data, given their prolonged life cycles. Amended Expert Report of Hunter
16 Lenihan, Ph.D, paragraph 37 (opining that spill could lead to decline in groundfish
17 "over the next decade").

18 15. These findings are also confirmed by Dr. Rupert's analysis, which did not
19 detect loss for groundfish in the "groundfish only" blocks of the original class
20 definition, and indicates that these species do not contribute to the impact detected by
21 the difference-in-differences regressions he performed in relation to oiled vs unoled
22 analysis.

23 16. The amended class definition that Plaintiffs now propose is intended to
24 conform the class definition to the evidence and expert analysis, and to limit
25 membership in the class to those fishers for whom evidence of impact and quantifiable
26 loss can be determined on a class-wide basis.

27 17. Class Counsel's notice provider previously issued notice based on a list
28 provided by the California Department of Fish & Wildlife ("CDFW") that included

1 individuals or businesses connected to roughly 700 license holders, 215 fish buyer IDs,
2 and over 875 vessel IDs. Class counsel more recently requested from the CDFW
3 information on the total number of fisher license number, vessel license numbers, and
4 fish buyer IDs related to the additional “oiled” blocks that could be included in the
5 proposed modified subclass for each year from 2010 to 2018. Because identifying
6 information is not available absent Court order, the data supplied only includes general
7 information about the number of vessels and licenses in the oiled area. Based on that
8 information, Class Counsel estimates the proposed modified subclass would include
9 roughly 300 to 500 additional class members or approximately 2,000 entities in total in
10 the new class, compared to an estimated 1,500 entities in the currently certified
11 subclass.

12 18. If the proposed amendments to the class definition are approved, Plaintiffs
13 will seek records from the CDFW to identify the names and addresses of each unique
14 license holders, and vessel owners in order to provide notice of members of the
15 amended class, the same procedure that was used to provide notice under the existing
16 class definition.

17 19. Plaintiffs believe that a notice plan similar to the one the Court previously
18 approved can be used to provide notice to members of the amended Subclass;
19 Declaration of Shannon R. Wheatman, Ph.D., in Support of Plaintiffs’ Motion for Class
20 Certification, Dkt. 130.

21 I declare under penalty of perjury that the foregoing is true and correct.

22
23 Executed this 30th day of August, 2019, at Seattle, Washington.

24
25 /s/ Juli E. Farris

26 Juli E. Farris